

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MAX MARGULIS, individually and	)	
on behalf of all others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. _____
	)	
SURREY VACATION RESORTS, INC.,	)	State Case No. 14SL-CC01367
d/b/a GRAND CROWNE RESORTS,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

COMES NOW Defendant Surrey Vacation Resorts, Inc., by and through counsel of record, and hereby gives notice of the removal of this cause of action to the United States District Court for the Eastern District of Missouri, Eastern Division. In support of said Notice of Removal, Defendant hereby states as follows:

**PROCEDURAL STATUS OF THE CASE**

1. On or about April 23, 2014, Plaintiff commenced this action by filing his petition in the Circuit Court of St. Louis County, Missouri, Case No. 14SL-CC01367.
2. The Circuit Court of St. Louis County, Missouri issued its summons on or about May 14, 2014.
3. Defendant was served with the summons and petition on May 27, 2014.
4. Defendant has not yet filed an answer to the petition.
5. The notice of removal is being filed in the record office of the Clerk of the United States District Court for the Eastern District of Missouri.

### **BACKGROUND**

6. Plaintiff's petition alleges Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, seeking damages and class action status for the recovery of said damages, and for injunctive relief. A copy of said petition is attached hereto as Exhibit A and incorporated herein by reference.

7. Pursuant to 28 U.S.C. § 1441(a), any civil action filed in state court over which the Federal District Courts would have original jurisdiction may be removed.

### **BASIS FOR FEDERAL COURT ORIGINAL JURISDICTION**

8. Plaintiff is seeking recovery individually and on behalf of all other similarly situated for violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*

9. 28 U.S.C. § 1337(a) provides Federal District Courts shall have original jurisdiction of any civil action arising under any Act of Congress regulating commerce.

10. As the Telephone Consumer Protection Act is an Act of Congress regulating commerce, this court has original jurisdiction over Plaintiff's claims.

### **PROPRIETY OF REMOVAL**

11. This Notice of Removal is timely because it is filed within thirty (30) days of Defendant's receipt of the petition in accordance with 28 U.S.C. § 1446(b).

12. This court has original jurisdiction of this matter under 28 U.S.C. § 1337(a).

13. This matter is properly removable under 28 U.S.C. § 1441, and is not barred by 28 U.S.C. § 1445.

14. Pursuant to 28 U.S.C. § 1446(a), Defendant has attached as Exhibit A a copy of all process, pleadings and order served upon Defendant in this matter.

15. Pursuant to 28 U.S.C. § 1446(a) and (d), Defendant will file a copy of this Notice of Removal with the Circuit Court of St. Louis County, Missouri, will provide prompt notice to all adverse parties, and will file proof of service of all notice and filings with the Clerk of the United States District Court for the Eastern District of Missouri.

16. Defendant reserves the right by subsequent motion or notice to raise any and all additional bases for removal as may become apparent or known to Defendant.

**REQUEST FOR HEARING & JURISDICTIONAL DISCOVERY**

17. If Plaintiff contests this removal, Defendant requests:

- A. a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
- B. the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and
- C. leave to conduct limited discovery related to those issues.

**WHEREFORE**, Defendant removes the above-captioned matter from the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri.

NEALE & NEWMAN, L.L.P.



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By: Brian K. Asberry, #509348

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ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served electronically to those parties who have entered an appearance in the Court's Electronic Court Filing (ECF) System and conventionally, via first-class mail, postage prepaid, to those parties who have requested notice but are not participating in the ECF System, on this 20 day of June, 2014.

NEALE & NEWMAN, L.L.P.



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By: Brian K. Asberry, #509348